

REMARKS

Applicants elect Species #1 characterized by figure 1 with traverse and submit that claims 1-62, inclusive, read on the elected species.

The Examiner has identified four different species originally filed in the present application as:

- I. Species #1 characterized by figure 1 (claims 1-62);
- II. Species #2 characterized by figure 2;
- III. Species #3 characterized by figure 3; and
- IV. Species #4 characterized by figure 4.

In response to this Restriction Requirement, Applicants submit the present paper electing Species #1, characterized by figure 1 and claims 1-62, with traverse.

Applicants respectfully believe that the Examiner errs in requiring an election in the above referenced application. The application is directed to a phototherapeutic device depicted in figures 1-4 (fig. 1, 100; fig. 2, 100, 202, 204, 206; fig. 3, 300; fig. 4, 400). Fig. 1 shows a peeled back schematic of the device, which exposes the inner components. Fig. 3 simply shows the device of fig. 1 on a patient's knee. Fig. 2 shows in greater detail the control mechanism, which is depicted in figs. 1, 2 and 3 as item 126 and in fig. 4 as item 422. Fig. 4 shows a large version of the invention, wherein a whole person can fit inside the device. The device contains the same components as those shown in figs. 1, 2, and 3: diodes (fig. 1, 116 and 118; fig. 4, 404), a housing (fig. 1, 104, fig. 4, 402) and a controller (figs. 1, 2 and 3, 126; fig. 4, 422). It is well known that differences in size do not lead to patentably distinct inventions. Therefore, Applicants believe that the embodiment shown in fig. 4 should not be segregated from the embodiments shown in figs. 1-3. Fig. 5 is a schematic of the biofeedback loop of the controller (figs. 1, 2 and 3, 126; fig. 4, 422) and, more specifically, the CPU (fig. 2, 214), which applies to all of the preceding figures.

Applicants contend that all of the figures are interrelated and that electing a single species based on a lone figure would result in an unnecessary limitation of the invention. The figures show only the internal and external elements of the device, depicted in a large and small size, along with the electrical componentry and computer logic loop necessary to allow the invention to function.

Applicants submit that the present paper is a complete response to the Office Action mailed July 1, 2003. The present paper is timely filed as it is being filed together with a two month extension of time up to and including October 1, 2003. No additional request for extension of time is deemed necessary. Should any additional request for extension of time be needed, please consider this paper to constitute the appropriate extension of time.

Should the Examiner have any questions, comments or suggestions that would expedite the prosecution of this case to allowance, Applicants' undersigned representative earnestly requests a telephone conference.

Respectfully Submitted,

Date: _____

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